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UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1993

Addendum

HUNGARY

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Introduction

1. The Republic of Hungary is an independent, democratic State based on the rule of law, where the legal framework for the implementation of the principles enshrined in the Convention are guaranteed primarily by the Constitution (chap. 12, art. 8).

2. According to article 15 of the Constitution: "The Republic of Hungary shall protect the institutions of marriage and family." Article 16 states that "The Republic of Hungary shall pay particular attention to the security of existence and education of young persons, and shall protect their interests." Article 67 affirms that "In the Republic of Hungary, every child shall have the right to enjoy protection and care, provided by his or her family, by the State and by the society, necessary for a proper physical, mental and moral development." Article 70/A declares a prohibition of discrimination on any grounds, including the prohibition of discrimination based on age. The draft of the new Constitution - currently under consideration - places particular emphasis on establishing guarantees for the implementation of children's rights.

3. Laws and other legal norms and standards which are based on the Constitution basically ensure the effective implementation of constitutional provisions and provide possibilities for their further development. In 1996, the drafting process of the Bill on the Protection of the Child, and the preparation of a comprehensive and substantial amendment to the Act on Public Education and to the Act on Vocational Training will signify a prominent step in this respect.

4. The Government of the Republic of Hungary is well aware of the fact that the implementation of the provisions enshrined in the Convention is not only bound to legal issues, but first of all rests on moulding and developing economic, social, cultural and other conditions.

5. In the past six years, fundamental changes have taken place in the country. Whereas the political and legal foundations of democracy have been created, radical changes have been initiated aiming at establishing a modern market economy and the country has started to draw closer to the processes of European integration. At the same time, grave difficulties have to be met, due to the parallel emergence of serious economic problems and the unavoidable economic emergency measures. In 1995, the Government of the Republic of Hungary launched an economic stabilization programme which, according to current projections, until the end of 1996 requires significant sacrifices from citizens, from families, from the system of social and educational institutions, since these measures have ushered in a decline in the funding for social policy programmes, a decrease in the possibilities for State-run care. The complexity of this situation is evidenced by the need for society to simultaneously overcome the structural crisis created by the previous system together with the problems related to transition, and to establish sound foundations for the modernization of the country.

6. The Government intends to curb the further growth of the national debt, and to commit domestic resources to supporting the social strata in need. This will be possible as well as necessary only in harmony with the

development of the country. At the same time, much has to be done to ensure a positive discrimination for the child and to forge the necessary solidarity within the society to these ends. This report intends to serve this purpose. As part of the dialogue between the Government and the non-governmental organizations, the non-governmental organizations intend to express their respective views to the Committee on the Rights of the Child about the situation of children, thus creating an even more extensive and differentiated picture of how the rights of the child are implemented in the Republic of Hungary. We hope that the widespread dissemination of the report in Hungary will contribute to raising public awareness on the issues relating to children.

I. GENERAL MEASURES OF IMPLEMENTATION

7. The representative of the Government of the Republic of Hungary signed the Convention on 14 March 1990. Act LXIV of 1991 promulgated the Convention on 22 November 1991 stipulating that the provisions of the Convention shall be effective from 6 November 1991. The Republic of Hungary ratified the Convention without any reservations. The Parliament in a resolution called on the Government to submit the necessary legislative amendments, as required by the provisions of the Convention, and make proposals to abolish those legal standards found contrary to its provisions.

8. The Government as well as non-governmental organizations embarked on a review of legislation incompatible with the provisions of the Convention. A codification and deregulation committee was set up which finished its work on 31 December 1993. The results of this work are being taken into account through the process of legal harmonization, conducted by a board of experts organized by the secretariat of the Coordination Council for Children and Youth Affairs operating under the auspices of the Government. Simultaneously, several civil organizations completed a review of Hungarian legislation, and their assessments also contribute to the continuing process of legal harmonization.

9. Ever since 1987, a Parliamentary Committee has worked on issues related to the age group of children and youth. Since 1994, the Sub-Committee on Youth of the Parliament's Education, Science, Youth and Sports Committee has discharged the administrative functions of preparing legislation in the field of child and youth policy.

10. The Government is determined to make every effort to promote the legal conditions for implementing the constitutional principles relevant to the child and youth age groups, together with the guarantees surrounding the administration of the State's child and youth policy, in order to make government decisions in this field well founded and more coordinated. In discharging its responsibility concerning the living conditions of children and youth, and to ensure that the interests of these age groups are promoted effectively throughout its activity, the Government established a Coordination Council for Children and Youth Affairs in December 1994 with the Prime Minister of the Republic of Hungary as its Chairman. Its members are representatives of the various ministries whose departments are involved in the activities of these age groups, as well as non-governmental experts. The primary task of the Coordination Council for Children and Youth Affairs is to

review, how the situation of the age groups is developing, how the government sources devoted to youth projects are used, the way the laws relevant to the age groups are modernized, and how these are harmonized with international standards. The secretariat is the official body of the Coordination Council for Children and Youth Affairs, and is an organizational unit within the Prime Minister's Office. The Minister of Culture and Public Education is responsible for coordinating the implementation of government policy on youth.

11. According to the programme of the Government adopted in 1994, the paramount and comprehensive tasks stemming from the State's child and youth policy are the following:

(a) To adopt legislation on the protection of the child and, in this context, to modernize the relevant system of institutions under the supervision of the Minister of Public Welfare;

(b) To carry out a reform of the non-material services and the institutionalized support system (family support and family-care services) devoted to assist family care under the supervision of the Minister of Welfare;

(c) To elaborate a long-term programme for primary education available free to all; to develop, both in terms of quantity and quality, secondary training and higher education under the supervision of the Minister of Culture and Public Education;

(d) To establish and regulate a system of representation, counselling, and legal remedies associated with the school rights of children (students) attending public education establishments, supervised and administered by the Minister of Culture and Public Education;

(e) To increase the chances of youngsters, at the start of their careers, to find jobs, to nurture job opportunities for youngsters leaving schools, to organize coherent, active measures to promote labour law protection of young job holders, supervised by the Minister of Labour.

12. Since 1990, local self-governments have the legal obligation to perform mandatory tasks pertaining to the child and youth age groups. Within the scope of local services, these include: providing nursery services, primary education and schooling, health and welfare services; supporting cultural, scientific, artistic and sports activities; ensuring effective observance of the rights of national and ethnic minorities; establishing and safeguarding community conditions for a healthy lifestyle. Besides, since 1995, local self-governments have to carry out tasks related to the analysis of the situation of the child and youth age groups, and must provide general and specific counselling to them for the protection of their interests and provide legal assistance to them, and to coordinate related activities within the local government administration as well as manage the target-oriented use of local government funds allocated to these ends. The Government set aside a target sum of 75 million forints in 1995 and 100 million in 1996 within the central budget to serve as a fund for relevant project applications.

13. The change of the system saw the end of the centrally directed children and youth organizations and movements. At the same time, a number of new organizations have been established and numerous organizations that existed before 1948 revived themselves. All this opened for children and youngsters ample opportunities, compared to earlier times, to be freely engaged in the activities of associations and civil organizations that correspond to their own interests, based on their education, philosophical views or religious beliefs, and to take an active role in responding to questions regarding their own lives and to shape their own destiny. The State budget, through its system of subsidies, offers funding, albeit of a much smaller magnitude than in the years prior to 1990, for the functioning of organizations operating nationwide.

14. In order to promote the interests of the child and youth age groups in governmental policy-making, the Child and Youth Council for Reconciliation of Interests was established in January 1995, with the participation of government officials and representatives of non-governmental organizations covering all age segments of youth.

15. In the Republic of Hungary, the basic tenets of the legal structure are in harmony with the international standards adopted to protect the rights of the child. The Government of the Republic of Hungary is fully aware of the importance of its obligations.

(a) To eliminate any contradictions in the various levels of legal regulations;

(b) To continuously update the legal rules concerning the child, in conformity with international standards;

(c) To reflect in all possible ways, within the domestic legal system, the provisions of international standards when drafting the new Constitution of the Republic of Hungary.

16. Accordingly, a proposal is now being prepared by the Government on whether or not to submit to Parliament by 1998 a bill on the status and implementation of the rights of the child, or rather to carry out a review of the legislation dealing with these rights and to submit a legislative package incorporating all the amendments required.

II. DEFINITION OF THE CHILD: ARTICLE 1

17. In Hungarian law, a child is a person below the age of 18 years, unless the person is married. If a person is above 16 years of age, the guardianship authority may issue a marriage permit, which also means that adulthood has been attained.

18. The child below the age of 14 years has no disposing capacity; the child of the age of 14 has a restricted disposing capacity.

19. In certain cases, the law provides for autonomy in decision-making for a child who has a restricted disposing capacity, and who may conclude contracts of small value and regularly occurring in everyday life, may dispose of

earnings gained through work, may make a court statement with respect to his or her own status and destiny in affiliation cases and adoption cases. The minor above the age of 16 years, for whom schooling is not compulsory, may independently enter into a work contract and may leave the parental home with the permission of the guardianship authority.

20. A child cannot be held accountable under criminal law. A person below the age of 14 at the time the act was committed cannot be tried for criminal offence. Criminal law prescribes separate rules for persons (juveniles) who are above 14 but below the age of 18, providing for more lenient sentencing and different criminal procedures and correction rules containing specific guarantees in order to protect the interests of the minor. Hungarian criminal law does not contain any special rule with regard to an age limit for detention or imprisonment. A person above the age of 14 may thus be sentenced to a prison term. However, according to the general practice, courts in Hungary usually do not sentence to a prison term a person barely over the age of 14. The concept of young (adult) offender is not recognized in Hungarian criminal law, but according to the ruling of the Supreme Court, a person between the ages of 18 and 21 may be regarded as a young offender, and this always is a mitigating circumstance in delivering a verdict. According to the law on criminal procedure, the rules pertaining to the grounds for objections to giving testimony are to be applied also in the case of child and juvenile witnesses, and this includes the right to refuse to testify.

21. The Hungarian legislation on petty offences also excludes the responsibility of persons below the age of 14 years.

22. The law on national defence provides for the general conscription for all males above the age of 17 who are Hungarian citizens and reside in the territory of Hungary. Military service before the age of 18 years is not permissible, even if requested voluntarily.

III. GENERAL PRINCIPLES

A. Non-discrimination: article 2

23. According to the Constitution, the Republic of Hungary guarantees human and civil rights for all persons on her territory without any kind of discrimination, irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Constitution establishes the obligation to apply strict penalties for any kind of discrimination against any human being on these grounds.

24. Those who commit crimes against humanity on the grounds of adverse discrimination (genocide; crimes committed against a national, ethnic, racial, or religious group) are severely punished under criminal law. It is worthwhile to emphasize that the crime of genocide can also be committed through the adoption of measures aimed at preventing births within a group. At present, even if these types of crime have not been committed, perpetrators of crimes arising from adverse discrimination against an individual may be prosecuted for grievous bodily injury caused maliciously or for vandalism. However, the postulate of qualified legal protection requires that the law

severely sanction such discrimination on the basis of the specific facts of the case. Accordingly, in March 1996, the Parliament adopted a new amendment to the Criminal Code qualifying as a criminal offence the organizing of any event, or providing finances for any event which may provoke violence against a national, ethnic, racial, religious or other group, hatred or incitement against the Hungarian nation, or any national, ethnic, racial or religious group.

25. The Act on the rights of national and ethnic minorities sets out special guarantees for persons, and therefore for children belonging to these groups.

B. Best interests of the child: article 3

26. The Hungarian Constitution, the Criminal Code and the Civil Code all stress the preponderance of the interests of the child over everything else. Family law contains general provisions that the parent, the executor of the law (guardianship authority, the courts of law) shall proceed always respecting the interests and the rights of the child.

27. Hungarian legislation and jurisprudence view differently the concept of the primacy of the interests of the child. According to certain concepts, this is applicable only to the laws and procedures relating to the child, while others represent a different opinion which would make the primacy of the interests of the child effective in every act of State and society, even if these seem to affect the child only indirectly.

C. The right to life, survival and development: article 6

28. In harmony with the Constitution and international standards, the Hungarian Criminal Code punishes strictly the termination of human life. The killing of a baby committed immediately after birth is classified as murder. According to the ruling of the Supreme Court, in every case when a juvenile is the victim of a crime this fact shall be regarded as an aggravating circumstance when a verdict is considered.

29. In 1990, the Constitutional Court abolished capital punishment, but even earlier it could only be applied against a person who was above the age of 20 years when the act was committed. Under Hungarian law, life imprisonment cannot be applied in the case of a juvenile.

30. There are numerous legal provisions in criminal law that provide special protection for the child. The person responsible for the education, supervision or care of the minor, who seriously violates his or her duties arising from this responsibility and thus jeopardizes the physical, mental or moral development of the minor, commits a crime. Even while not committing a serious crime, the person who induces or attempts to induce a minor to commit a crime or to lead a disreputable life shall be liable for punishment. Failure, due to one's own fault, to meet child-care obligations that are based on law and stipulated in an executable court order constitutes a crime. The legal provisions sanctioning sexual crimes, such as rape, sexual exposure and soliciting, consider it an aggravating circumstance if the victim is educated by, supervised by, cared for or medically treated by the offender. Assistance in committing prostitution shall constitute an aggravated crime if a person

below the age of 18 commits the act of prostitution. In order to protect juveniles against the abuse of narcotic drugs, the law provides for special sanctions in case the abuse of narcotic drugs is committed using a juvenile or a minor or if, in the course of perpetration, such a person gains access to narcotic drugs. For further information, see the statistical tables in annex I.

D. Respect for the views of the child: article 12

31. Hungarian law affirms the principle that juveniles shall be heard in any judicial or administrative proceeding affecting them. The Constitution guarantees equality before the law, the right of everyone to have the charges against him or her, or one's rights and obligations in a legal proceeding examined by an impartial tribunal established by law in a fair and public hearing.

32. According to family law, the parents shall ensure that the child, who is in possession of his or her faculty of judgement, shall have the opportunity to express his or her own views at the preparatory stage of making a decision affecting him or her. The views of the child shall be given due weight considering his or her age and maturity. A 1995 amendment established a new rule whereby the court and the guardianship authority shall hear the child in justified cases, either directly or indirectly through an expert, concerning parental supervision or the placement of the child, including when the child so requests. When the child reaches the age of 14 years, any ruling on his or her placement must have the child's consent, except when the placement chosen by the child can jeopardize the child's own development. It is desirable to establish general procedural rules with respect to requesting and considering the views of the child.

33. A new rule in civil law procedure stipulates that the court, in justified cases, may assign a guardian for the child to be of assistance at a court hearing, and may also rule to hear the child in the absence of the parents.

34. In criminal proceedings, the obligation to read the rights of the accused concerning making a coherent confession and on the right to refuse to make a confession before questioning is also effective for the juvenile suspect.

35. The proposed amendment to the law on public education intends to provide the student with comprehensive entitlements to express his or her views - and to have these views taken into account - in connection with his or her school life.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality, preservation of identity: articles 7 and 8

36. According to Hungarian family law, the child bears the family name of the father or of the mother, according to the agreement between the parents. The parents also choose the first name of the child. Should there be no person regarded as the father of the child, the child shall bear the family

name of the mother, until a fictive father is registered. The law entitles the child to bear his or her former family name if in an affiliation case the assumption of fatherhood is annulled. Maintaining the former family name is also possible in case of adoption. If the child has reached the age of 14 years, the child's consent is necessary to make an affiliation statement of fatherhood, and similarly, consent of the child is required for adoption.

37. Hungarian law contains detailed regulations with regard to the right to citizenship. Citizenship is based on the principle of ius sanguinis. Consequently, the child becomes a Hungarian citizen even if only one of the two parents is a Hungarian citizen. As a supplementary principle, the law applies the territorial principle in two cases: if the child's parents are unknown or if the parents are stateless.

B. Freedom of expression: article 13

38. The right of the child to freedom of expression and to receive appropriate information arises from the provisions of the Constitution. However, general and specific legislation is still to be enacted to ensure for the child the enjoyment of this freedom and right in all situations that may emerge during childhood.

C. Freedom of thought, conscience and religion: article 14

39. The Constitution guarantees for all persons, regardless of age, the freedom of thought, conscience and religion. The law on the freedom of conscience and religion and the law on the church maintains that the parent is exclusively entitled to decide on the religion of the child.

40. The Hungarian Criminal Code sanctions the violation of the freedom of conscience and religion, together with numerous facts of case in this context (coercion, violation of the security of person, kidnapping, violation of privacy of one's home and of personal data, violation of the secrecy of correspondence, slander and defamation).

D. Freedom of association and of peaceful assembly: article 15

41. The Constitution and the laws on association and assembly do not exclude the child from the enjoyment of the right to freedom of association and peaceful assembly. Nevertheless, Hungarian civil law does not recognize the legal statement of a person having no or restricted disposing capacity aimed at exercising these rights, namely to establish, register and operate a civil organization, and within this framework to undertake obligations and representation on behalf of the organization, or to the activity regarding the authorization to represent, or to decide on, to register or to organize an event (assembly), or to give a mandate for presentation of reporting concerning thereof. Specific rules are still required to be enacted to guarantee that the child shall be able to exercise these rights.

E. Protection of privacy: article 16

42. The Constitution guarantees to everyone, regardless of age, the right to the privacy of the home and the right to the protection of personal data.

The basic content of and the fundamental guarantees for the enjoyment of the latter right are regulated in a specific law. However, with regard to children separate regulations are still to be enacted to make the provisions in this law genuinely effective.

43. In case of crimes punishable pursuant to a private complaint, such initiative may be undertaken by the legal representative of a child below the age of 14; a child above the age of 14 years may independently submit a private complaint. In both instances, the guardianship authority is also entitled to initiate a private complaint.

44. Specific regulation is required for the protection of the right of the child to privacy in school, in a hostel, and in child and youth protection institutions. In this respect, bills need to be drafted to establish the rules required.

F. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment: article 37 (a)

45. According to the Constitution, no one may be subjected to torture or cruel, inhuman or degrading treatment or punishment, and it is forbidden to conduct medical or scientific experiments on a human being without his or her prior consent.

46. The rules governing correction stipulate that the human dignity of the person sentenced to deprivation of liberty shall be respected.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Parental guidance: article 5

47. According to Hungarian family law, the parent is responsible for the care and guidance, and of promoting the physical, mental and moral development of his or her child.

48. According to the provisions of Hungarian family law, the parents have to exercise parental guidance taking into account the interests of their young child. The parents shall decide on the placement of the child. If agreement between the parents is lacking, the court shall place the child with the parent, who seems to be able to provide better physical, mental and moral development. A request to change the placement of the child may be submitted if the conditions upon which the court based its ruling have subsequently changed substantially and as a consequence, the change of placement is in the interest of the child. An arbitrary alteration in the family status of a child constitutes a crime.

B. Parental responsibilities: article 18, paragraphs 1-2

49. According to Hungarian family law, both parents shall jointly exercise parental guidance even if they live separately. The parents who live separately will decide together on substantive issues concerning the life of

the child. In proceedings for divorce or for placement of the child the court may, upon the request of the parents, decide on common parental supervision.

C. Separation from parents: article 9

50. According to Hungarian family law, should placement of the child with the parents jeopardize the interests of the child, the court may place the child with another person, provided there is a request to this effect coming from this person. In the course of the judicial proceedings everyone concerned shall be heard. The court may terminate parental supervision and place the minor with another person or in an institution if the parents' behaviour is detrimental to, or gravely jeopardizes the interests, especially the physical well-being and mental or moral development of the child. The child has the right to maintain personal relations and to direct contacts with the parent from whom he or she is separated. In exceptionally justified cases, in the interest of the child the court may entitle the parent whose parental supervision rights had been terminated by a court decision to maintain direct contact with the child. For further information, see annex I.

D. Recovery of maintenance for the child: article 27, paragraph 4

51. A parent living apart from the child is obliged to provide maintenance for the child, primarily in cash. If the parents are unable to reach an agreement, the court shall take a decision on the amount of the maintenance for the child.

52. The Republic of Hungary has acceded to the New York Convention on the Recovery Abroad of Maintenance, and to the Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations to Children. The Ministry of Justice and the Ministry of Welfare are responsible for the administration of these tasks. A substantial part of the several hundred cases for recovering maintenance for the child from abroad end successfully. The bilateral agreements on mutual legal assistance concluded by Hungary also include family law matters; the recognition and recovery of claims is also pursued through this process.

53. The negligence of child maintenance responsibility due to one's fault is a crime under Hungarian law, but the law allows the possibility of waiving punishment in case of compliance prior to the handing down of the sentence of first instance.

54. If the obligator fails to fulfil his or her obligations as set out in an enforceable judicial decision, the rules for seizure by the court provide the possibility for the direct deduction from the personal income of the maintenance. Family law stipulates that should the recovery of maintenance for the child be temporarily impossible, the court may credit an advance.

E. Children deprived of family environment: article 20

55. According to Hungarian family law the minor is under either parental supervision or guardianship. If for whatever reason the physical, mental and moral development of the minor is not appropriately ensured, the guardianship authority may authorize the placing of the minor in an institution, and if the

court has terminated parental supervision, the minor shall be placed in the care of the State. In this case, the minor may be placed in an institution or with foster parents. The person with whom the court has placed the child shall be considered as the guardian of the minor. Legal regulation is still to be enacted in order that a review of placement is carried out regularly. For further information, see annex I.

F. Adoption: article 21

56. According to Hungarian family law, the purpose of adoption is to ensure family care primarily for minors whose parents are not alive, or whose parents are incapable of providing appropriate care. Adoption is authorized by the guardianship authority. Adoption shall be authorized only if the child over the age of 14 has given his or her consent to it. Adoption shall not be authorized if it is motivated by financial gain for either of the parties concerned, or for the individuals or organizations participating in the procedure. The adoption of a child from abroad, with the exception of adoption by relatives or by the spouse of the parent, shall be authorized only in exceptional cases, primarily when, owing to a lack of initiative, the adoption of a child being brought up in an institution did not take place in Hungary, or when the measures taken with a view to adoption have not been successful.

G. Illicit transfer and non-return: article 11

57. The Republic of Hungary complies with the provisions of the Hague Convention on the Civil Aspects of International Child Abduction; a specific law regulates certain issues of implementation. The Ministry of Justice is responsible for the administration of these tasks.

58. The prosecution of the crimes of violating the right of security of person, of kidnapping, of dissolving the family status, and of the offence of changing the placement of the minor serve the prevention of the illicit transfer of children abroad.

H. Abuse and neglect, including physical and psychological recovery and social reintegration: articles 19 and 39

59. According to the Hungarian Criminal Code, every member of society, regardless of age, is protected against acts of violence. The prosecution of crimes against the individual, crimes of trafficking, crimes related to sexual abuse and crimes against property provide comprehensive legal protection against such acts.

I. Periodic review of placement: article 25

60. The laws do not contain specific provisions regarding the tasks in the field of child and youth protection and care, or regarding the structure and operation of the system of child and youth care institutions. The relevant bill on the protection of the child is now being drafted and is expected to be submitted to Parliament in 1996. For further information, see annex I.

VI. BASIC HEALTH AND WELFARE

A. Disabled children: article 23

61. The Republic of Hungary guarantees free health care to the disabled child. There is, however, a need to work out a system of bringing up and caring for disabled children in the family. For further information, see annex I.

B. Health and health services: article 24

62. For statistical information on this subject, see annex I.

C. Social security and child-care services and facilities: articles 26 and 18, paragraph 3

63. For statistical information on this subject, see annex I.

D. Standard of living: article 27, paragraphs 1-3

64. In the Republic of Hungary, a child shall receive health insurance coverage even if neither the child nor his or her relatives have any entitlement to it. The Republic of Hungary provides for the child, as a civil right and free of charge, the immunization needed at different ages and the screening examinations as part of medical care.

65. The standard of living of children in Hungary is closely related to the critical economic performance of the country. In the aftermath of the economic stabilization measures adopted by the Government, the nominal and the real value of subsidies devoted to the child are declining (family allowance, other family grants, financing of health services). The Government has, however, adopted measures to prevent a significant decline in the standards of basic baby and young child care (paediatric nurses, nurseries, kindergartens). For further information, see annex I.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance: article 28

66. Public education in Hungary is compulsory and free of charge for all up to the age of 16. However, the economic difficulties faced by the country directly increase for the families concerned the costs for schooling (textbooks, stationery, etc.). The increase of the burden is more apparent for parents with children enrolled in secondary education. For further information, see annex I.

B. Aims of education : article 29

67. On the basis of the relevant legislation adopted in 1993, the Government of the Republic of Hungary issued a decree in 1995, containing the so-called National Core Curriculum. The information and capabilities promoting the objectives of the Convention are incorporated into several conceptual areas of culture and education, as defined by the National Core Curriculum. Further, a

two-year curriculum is still to be worked out to comply with the relevant provisions of the Convention, particularly of those in article 29, paragraph 1, of the Convention.

C. Leisure, recreation and cultural activities: article 31

68. As a consequence of the negative impact of the changes in the economic situation of the country, the amount of State and local government resources available for leisure time, recreation and cultural activity has significantly decreased. The State subsidies for this purpose have been reduced which resulted in a decrease in the number of institutions providing such services for children. It is anticipated that only from 1997 shall the Government be able to adopt adequate measures to halt and reverse this tendency. For further information, see annex I.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children: article 22

69. The Republic of Hungary is a State party both to the Convention relating to the Status of Refugees and to the Protocol relating to the Status of Refugees. The rules in this context are a part of domestic law. For further information, see annex I.

2. Children in armed conflicts, including physical and psychological recovery and social reintegration: articles 38 and 39

70. See comments to article 1 of the Convention.

B. Children in conflict with the law

1. The administration of juvenile justice: article 40

71. There is no separate criminal justice system for juveniles, but there are some specific provisions for juveniles in the areas of penal law and criminal procedural law and rules on the enforcement of punishments. These rules incorporate the desire to consider the peculiarities arising from age, but do not provide a framework for the operation of a special administration of justice justified by the characteristics of juvenile delinquency, the social problems and possibilities of those who infringe the law. This is particularly significant in the context of the fact that a coherent system for the prevention of juvenile delinquency has not yet been established in Hungary.

72. Specific rules of procedure for juvenile delinquents are:

(a) During criminal procedures, if necessary, measures to protect and guard the juvenile should be initiated;

(b) The public shall be excluded from the trial if necessary in the interest of the juvenile;

(c) The participation of the prosecutor (juveniles' prosecutor) - appointed by the superior prosecutor - at the trial is obligatory;

(d) A designated division of the court or a designated judge shall hear the case brought against the juvenile;

(e) At the court of first instance one of the lay judges of the juveniles' division shall be a teacher;

(f) In cases of juveniles falling under the jurisdiction of the district court, it is the district court at the seat of the county court which shall hear the case;

(g) In procedures against the juvenile the participation of a defence attorney shall be obligatory;

(h) The person who takes care of the minor shall be heard and an environmental report and school or workplace evaluation shall be obtained in order to determine the characteristics of the personality, the mental development and the emotional relations of the minor.

73. Since 1995, an amendment to the rules of criminal procedure introduced the possibility to postpone the indictment. If the conditions of indictment exist and the minor has committed a crime punishable with not more than five years of deprivation of liberty, the prosecutor may postpone the indictment for a period of one to two years. At the same time, there is no infringement of the right of the juvenile to have an independent and impartial court decide on the case brought against him or her. As a matter of fact, the law ensures the juvenile the right to have a hearing if the minor does not agree with a postponement of the indictment. The prosecutor shall declare that during the period of postponement the minor shall be under supervision. When the period determined for postponement has elapsed, the prosecutor shall abandon the investigation. The amendment also stipulates that the investigating authority, simultaneously with informing the juvenile about the charge based on a well-founded suspicion shall appoint a defence attorney if the juvenile delinquent has no authorized defence. For further information, see annex I.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings: article 37 (b), (c) and (d)

74. Hungarian criminal procedural law stipulates that in pre-trial detention the juvenile shall be segregated from adults.

75. The rules of criminal procedure coming into force in 1995 created more exact and severe conditions for pre-trial detention. Pre-trial detention may be ordered only where there exists a well-founded suspicion that a serious crime has been committed. The new rules permit pre-trial detention to be served in a juvenile house of correction. Furthermore, during the period of pre-trial detention the place of detention may be changed by the court on

submission by the prosecutor, the defendant, or the defence attorney. According to another new provision, before the indictment, during the procedures regarding coercive measures to be imposed (pre-trial detention, temporary medical treatment), no hearing shall be held in the absence of the defence attorney and the legal representative and the person taking care of the juvenile shall be informed of the hearing, and shall have the right to give a statement.

3. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment: article 37 (a)

76. There is no capital punishment in the Republic of Hungary. Life imprisonment may not be imposed on a minor.

77. Fifteen years of imprisonment is the longest term that may be imposed on a minor who was 16 when the crime was committed if the maximum sentence for the crime is life imprisonment; 10 years of imprisonment is the maximum for a crime punishable with a sentence of more than 10 years. A cumulative and aggregate punishment may not be more than a 20- or a 15-year term in prison.

78. The longest term of imprisonment that may be imposed on a minor who was not yet 16 when the crime was committed is five years, where the crime is punishable with a longer term. A cumulative and aggregate punishment may not be more than seven and a half years in prison. A number of provisions in the Hungarian Criminal Code were amended in 1993 to ensure that the punishment of deprivation of liberty is inflicted on a minor only in the most necessary instances, and only for the shortest possible term.

79. The possibilities of applying supplementary sentences independently of the principal punishment have increased. In the case of ex-convicts, a suspension of the sentence has become possible. The shortest term of deprivation of liberty was reduced from three months to one day for any crime and any convict.

80. The 1995 amendment to the Criminal Code states that measures or punishments implying deprivation of liberty shall be applied only if the objective of the measure or the sentence cannot be realized in any other manner. The same amendment changed the measure termed "care in a correctional house for an unspecified period of time" to "care in a correctional house for a period from one to three years". With respect to the nature of care in a correctional house that severely restricts freedom, one day in detention is counted as being equal to one day of care in a correctional house. The same law also changed the period of probation from one year to a period from one year to two years, allowing it to be determined in months.

C. Children in situations of exploitation, including physical and psychological recovery, and social reintegration: article 39

81. If a minor is punished with deprivation of liberty, the sentence shall be executed in a penal institute for juvenile offenders and in this institute adult prisoners shall be present only to ensure the operation of the institute.

82. In Hungary, there are two institutions for juvenile offenders which are operated by qualified teachers and one institution is equipped with a psychological laboratory to provide assistance in the rehabilitation of the mental health of the minor.

83. The law sets out provisions to ensure that the juvenile prisoner shall participate in vocational training or in learning skills, and steps shall be taken to ensure that the minor participates in secondary education. During the correctional process, assistance shall be sought from the guardianship authority and other administrative bodies, civil organizations, professional and non-professional patrons and the relatives of the minor in the education and social reintegration of the minor.

84. With a view to promoting the reintegration of the minor the rules have been changed for the enforcement of punishments and for supervision by patrons. The minor who has been sentenced to suspended imprisonment, who has been put on parole or who is on probation, temporarily released from a correction house or against whom the indictment has been postponed is under supervision by patrons. This task is discharged by professional and non-professional patrons, with local governments, employers, schools, charity and non-professional organizations assisting in this together with the police. The objective of supervision by patrons is to foster self-respect and develop the sense of responsibility of the convicted person, assisting the preparations for an independent life after having regained liberty that shall meet the expectations of society.

85. If the prisoner has spent three months in a jail or six months in a prison, then

(a) The prisoner may leave the correctional institution not more than four times a month for more than 24, and exceptionally 48 hours;

(b) Money for personal use may be provided in cash which may be spent outside the correctional institution;

(c) The prisoner may receive visitors outside the correctional institution;

(d) When working outside the correctional institution guarding may be waived.

86. Those sentenced to longer terms in prison may be placed in groups in order to assist their reintegration, where less severe rules may be applied. The convicted person may be released for not more than 24 hours, or for a longer time as a reward, for 5 days a year in penitentiary, 10 days a year in prison, and 15 days a year in jail. The convicted person may also work outside the penal institution.

87. Leave for not more than 24 hours may be permitted as a reward if the convicted person has served at least half of the sentence in penitentiary, at least six months in prison, and at least three months in jail.

88. Detailed rules have been adopted regarding the rights of the convicted person to maintain contacts with the outside world (correspondence, receiving visitors, a submission or claim of public interest to be lodged outside the institution, contacts with employers and representatives of charities and the patron to assist in finding a workplace after release, ordering press publications, contacting diplomatic or consular missions, receiving and sending packages, sending uncensored letters to authorities and international organizations, using a phone).

89. The law states that assistance shall be sought from civil, charity and non-professional organizations to assist the education of the minor in correctional institutions, his or her social reintegration, and to promote post-release care.

1. Economic exploitation, including child labour: article 32

90. Several provisions of the Hungarian Criminal Code prohibit the economic exploitation of the child. Since 1995, besides the crime of endangering a minor, the law imposes a more severe punishment on an adult who induces or attempts to induce a minor to commit a crime or to lead a corrupt life, or who employs a minor at forced labour. In the case of forced labour, the crime of bodily injury, if an injury occurs, or of endangering in pursuance of profession, or of coercion, shall be established.

91. It is prohibited to establish labour relations with a person incapable according to Hungarian Civil Code and labour law. The minor having no or restricted disposing capacity may establish labour relations without the consent of his or her legal representative over the age of 16. The minor shall dispose of his or her own earnings.

92. Hungarian labour law prohibits the employment of a minor in work that may have harmful consequences to his or her physique or development.

93. The violation of the rules regarding the employment of minors is considered as a petty offence; the fines imposed for it at present are not proportionate to the size of income generated from illegal employment or to the danger posed to the individual and to society. At the same time, the rights of the worker, including those of the minor, are protected indirectly by a number of criminal law sanctions against income tax and social insurance fraud, and against those who violate the obligation to pay social insurance and health and pension contributions.

2. Drug abuse: article 33

94. Hungarian criminal law, particularly since the amendment of 1993, severely punishes any abuse of narcotic drugs. Criminal law provides for the prosecution of all those who abuse narcotic drugs using children or who supply children with narcotic drugs.

95. Criminal law punishes those who use narcotic drugs, regardless of age.

96. The law provides specific punishment for those adults who assist or induce a minor to abuse narcotic drugs pathologically.

3. Sexual exploitation and sexual abuse: article 34

97. Hungarian law severely penalizes the seduction of a minor.

98. Incest is penalized by the law.

99. Any form of rape is severely penalized by the law.

100. Seduction, rape and sexual assault are punishable only on private complaint submitted by the victim. If the victim is under the age of 14, the private complaint may be submitted by the legal representative, but if the victim is over the age of 14 he or she may independently submit a complaint. In these cases, the guardianship authority is also authorized to submit a complaint.

101. According to Hungarian criminal law prostitution is not a crime, and is considered as a misdemeanour. But facilitating prostitution, living on a prostitute's earnings, procuring, and maintaining a brothel are penalized severely. The law penalizes more severely those who commit sexual crimes for profit, if in the brothel maintained by the person facilitating prostitution a minor is engaging in prostitution, or if the offender in committing the crime of soliciting injures a person who is a relative or is under his or her tutelage care or supervision.

4. Other forms of exploitation: article 36

102. Apart from the crime of economic and sexual exploitation, the sanctioning of the crime of coercion, of endangering a minor, and of blackmail protects the child against other forms of exploitation.

5. Sale, trafficking and abduction: article 35

103. Since 1995, Hungarian criminal law has penalized the crime of kidnapping, besides the crimes of violation of personal freedom and of smuggling people. Legislation has complemented the evidence of the crime of altering the family status in order to fight trafficking in children more effectively.

D. Children belonging to a minority or an indigenous group: article 30

104. Pursuant to the relevant law, the rights of children belonging to national or ethnic minorities in Hungary are given effect through positive discrimination. The establishment and the functioning of this system of institutions is under way. Besides ensuring the rights of national and ethnic minorities by law, Hungarian society must confront the expansion of social prejudice which substantially hinders the effectiveness of these rights. Legal rules alone shall not be able to prevent the proliferation of anti-Gypsy sentiments, racism and xenophobia; the Government is therefore contemplating the adoption of active means to ease social prejudice and to fight intolerance.

IX. CONCLUSION

105. The Republic of Hungary assumed an obligation by article 2 of the Convention to make the Convention and the principles of it widely known a disseminate it to the largest possible extent. In this respect, no measu have been adopted by the Government. Non-governmental organizations have significant efforts to make the Convention widely known in Hungary, and h issued several publications containing the text of the Convention and have published independent studies thereon.

106. In the course of drafting the next report, the Government of the Republic of Hungary will attach great importance to disseminating in all possible forms the provisions of the Convention as well as the report amo citizens, legislators and the judiciary.